

BOARD BILL # 166

INTRODUCED BY ALDERWOMAN PHYLLIS YOUNG

AN ORDINANCE AMENDING ORDINANCE NOS. 66006, 67021 AND 67314; AUTHORIZING AN AMENDMENT TO THE REDEVELOPMENT AGREEMENT WITH 4100 DEVELOPMENT, INC.; AUTHORIZING AN AMENDMENT TO THE REDEVELOPMENT AGREEMENT WITH UVA DEVELOPMENT COMPANY; AUTHORIZING AN AMENDMENT TO THE REDEVELOPMENT AGREEMENT WITH SOULARD MARKET APARTMENTS, L.P.; AUTHORIZING RELATED ACTIONS; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the “City”), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “TIF Commission”); and

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended (the “Act” or “TIF Act”), the City is authorized to undertake redevelopment projects and to issue obligations and take other actions in furtherance thereof; and

WHEREAS, the City, pursuant to Ordinance No. 67146 did adopt the “4100 Forest Park TIF Redevelopment Plan” dated February 16, 2006, as amended, did designate the property described therein as a “redevelopment area” pursuant to the TIF

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1 Act and did approve a redevelopment project with respect to such redevelopment area
2 (the “4100 Project”), and did establish a special allocation fund with respect to such
3 redevelopment plan (the “4100 Special Allocation Fund”); and

4 **WHEREAS**, the City entered into that certain Redevelopment Agreement dated
5 as of May 2, 2007 (as amended, the “4100 Agreement”) with 4100 Development, Inc.
6 (the “4100 Developer”), by which the City agreed to reimburse the 4100 Developer for
7 certain costs related to the 4100 Project, pursuant to the TIF Act; and

8 **WHEREAS**, the City adopted Ordinance No. 67314 (the “4100 Note
9 Ordinance”), by which the City authorized the issuance of up to \$6,036,000 plus Issuance
10 Costs (as defined therein) of tax increment revenue notes to reimburse 4100 Developer
11 for certain costs related to the 4100 Project (the “4100 Notes”); and

12 **WHEREAS**, the City, pursuant to Ordinance No. 66425 did adopt the
13 “Warehouse of Fixtures TIF Redevelopment Plan” dated April 30, 2004, as amended, did
14 designate the property described therein as a “redevelopment area” pursuant to the TIF
15 Act and did approve a redevelopment project with respect to such redevelopment area
16 (the “Warehouse Project”) and did establish a special allocation fund with respect to such
17 plan (the “Warehouse Special Allocation Fund”); and

18 **WHEREAS**, the City entered into that certain Amended and Restated
19 Redevelopment Agreement dated as of July 6, 2006, as amended by that certain First
20 Amendment to Amended and Restated Development Agreement dated as of March 31,
21 2008 (as may be further amended, the “Warehouse Agreement”) with UVA Development
22 Company (the “Warehouse Developer”), by which the City agreed to reimburse the

Warehouse Developer for certain costs related to the Warehouse Project, pursuant to the TIF Act; and

WHEREAS, the City adopted Ordinance No. 67021 (the “Warehouse Note Ordinance”), by which the City authorized the issuance of up to \$6,100,000 plus Issuance Costs (as defined therein) of tax increment revenue notes to reimburse the Warehouse Developer for certain costs related to the Warehouse Project (the “Warehouse Notes”) and

WHEREAS, the City, pursuant to Ordinance No. 65975 did adopt the “Soulard Market Apartments TIF Redevelopment Plan” dated April 18, 2003, as amended June 13, 2003, as may be further amended, did designate the property described therein as a “redevelopment area” pursuant to the TIF Act and did approve a redevelopment project with respect to the project area designated as “Redevelopment Project Area 1” (the “Soulard Project”) and did establish a special allocation fund with respect to such Redevelopment Plan (the “Soulard Special Allocation Fund”); and

WHEREAS, the City entered into that certain Redevelopment Agreement dated as of July 23, 2003 (as amended, the “Soulard Agreement”) with Soulard Market Apartments, L.P. (the “Soulard Developer”), by which the City agreed to reimburse the Soulard Developer for certain costs related to the Soulard Project, pursuant to the TIF Act; and

WHEREAS, the City adopted Ordinance No. 66006 (the “Soulard Note Ordinance”), by which the City authorized the issuance of up to \$4,400,000 plus Issuance Costs (as defined therein) of tax increment revenue notes to reimburse Soulard Developer for certain costs related to the Soulard Project (the “Soulard Notes”); and

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1 **WHEREAS**, the City, the 4100 Developer, the Warehouse Developer and the
2 Soulard Developer now desire to amend the 4100 Note Ordinance, the Warehouse Note
3 Ordinance and the Soulard Note Ordinance, respectively, with respect to the terms of the
4 4100 Notes, the Warehouse Notes, and the Soulard Notes, set forth therein; and

5 **WHEREAS**, the City, the 4100 Developer, the Warehouse Developer and the
6 Soulard Developer desire to amend the terms of any agreements between them as
7 necessary to effectuate and accommodate the contemplated amendments to the terms of
8 the 4100 Notes, the Warehouse Notes and the Soulard Notes; and

9 **WHEREAS**, the Board of Aldermen hereby determines that the amendments to
10 the terms of the 4100 Notes, the Warehouse Notes and the Soulard Notes are acceptable
11 and that the execution, delivery and performance by the City and the Developer of their
12 respective obligations hereunder are in the best interests of the City and the health, safety,
13 morals and welfare of its residents, and in accord with the public purposes specified in
14 the TIF Act.

15 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

16 **SECTION ONE.** The Board of Aldermen hereby amends Ordinance Nos.
17 66006, 67021 and 67314 as set forth herein.

18 **SECTION TWO.** In each of Ordinance Nos., the definition of the term
19 “Payment Date” is hereby revised to refer to each March 1 and September 1.

20 **SECTION THREE.** The City does hereby delete in their entirety the text of the
21 following sections of Ordinance Nos. 66006, 67021 and 67314: (i) Section 202(c) of
22 Ordinance No. 66006, (ii) Section 202(c) of Ordinance No. 67314, and (iii) Section

202(c) of Ordinance No. 67021. The text deleted from the sections referenced herein shall be replaced with the following:

“ The TIF Notes shall mature (subject to redemption and payment prior to maturity as provided in Article III hereof), on the date that is twenty-three (23) years after the effective date of the Approving Ordinance, which is _____. The Interest Rate on the TIF Notes shall be calculated as follows, provided that the maximum interest rate shall in any event be limited to and not exceed ten percent (10%):

(i) Each TIF Note shall bear interest initially (such rate being, with respect to each TIF Note, the “Initial Rate”) at a rate per annum determined on the date that is not less than ten (10) and not more than sixty (60) business days prior to the scheduled closing date for issuance of the TIF Notes (the “Pricing Date”) based on the municipal yield curve for general obligation bonds (the “MMD”) compiled by Municipal Market Data Line ® (or its successors) and published by Thomson Financial, an operating unit of The Thomson Corporation (or its successors) using the MMD yield published as of the Issuance Date for general obligation bonds rated “AAA” that mature in the same year as the TIF Notes, (i) plus four percent (4%) if the interest on such TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation (the “Taxable Rate”), or (ii) plus two percent (2%) if the interest on such TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation (the “Tax Exempt Rate”).

(ii) In the event that, on any Calculation Date (as hereinafter defined), the sum (such sum being the “Aggregate Available Revenues”) of all:

a) Available Revenues (as defined in Ordinance No. 66006, as may be amended) on deposit in the Soulard Markets Special Allocation Fund of the City; plus

b) Available Revenues (as defined in Ordinance No. 67314, as may be amended) on deposit in the 4100 Forest Park Special Allocation Fund of the City; plus

c) Available Revenues (as defined in Ordinance No. 67021, as may be amended) on deposit in the Warehouse of Fixtures Special Allocation Fund of the City;

is not equal to the total aggregate amount of interest due and payable (such aggregate amount being the “Aggregate Payment Obligations”) on the next succeeding Payment Date under any tax increment revenue notes or obligations issued pursuant to Ordinance Nos. 66006, 67314 or 67021, then, if Available Revenues remain on deposit in the Special Allocation Fund, the Interest Rate on the TIF Notes shall be equal to the interest rate specified in subpart (i) above, plus such percentage as is equal to the result of the following formula (the “Additional Interest”):

a) the difference between the Aggregate Available Revenues and the Aggregate Payment Obligations;

b) divided by the principal amount then outstanding of the TIF Notes, the result of such division being expressed as a percentage.

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2 For the purposes of this subsection, the term "Calculation Date" shall
3 mean the last business day preceding any Payment Date."
4 Notwithstanding anything herein to the contrary, in the event that the
5 Interest Rate on any TIF Note exceeds the Initial Rate set forth herein,
6 then such TIF Note shall, after the next Payment Date, only accrue interest
7 based on the Initial Rate, and not on any portion of the Interest Rate which
8 exceeds the Initial Rate. Furthermore, in the event that, on any Payment
9 Date, the Interest Rate on the TIF Notes was in excess of the Initial Rate
10 (such amount by which the Interest Rate exceeded the Initial Rate being
11 the "Excess Rate"), then from such Payment Date until the next
12 Calculation Date, the Interest Rate on such TIF Note shall only be equal to
13 the number equal to the result of the following: (x) the Interest Rate, less
14 (y) the Excess Rate."

15 **SECTION FOUR.** The Board of Aldermen hereby authorizes the City to enter
16 into and execute any amendments, restatements, modifications or other agreements with:
17 (i) the Warehouse Developer with respect to the Warehouse Agreement, (ii) the Soulard
18 Developer with respect to the Soulard Agreement, and (iii) the 4100 Developer with
19 respect to the 4100 Agreement; to the extent necessary or appropriate to amend such
20 agreements to reflect the revised terms of the obligations set forth herein, with no such
21 further action of the Board of Aldermen necessary.

22 **SECTION FIVE.** The Mayor and Comptroller of the City or their designated
23 representatives are hereby authorized and directed to take any and all actions (which shall

1 include, specifically, but not be limited to, the amendment of the form of TIF Note
2 referenced in each of the Warehouse Agreement, 4100 Agreement, and Soulard
3 Agreement, as well as in Ordinance Nos. 66006, 67314, and 67021) to execute and
4 deliver for and on behalf of the City any and all additional certificates, documents,
5 agreements or other instruments as may be necessary and appropriate in order to carry out
6 the matters herein authorized, with no such further action of the Board of Aldermen
7 necessary to authorize such action by the Mayor and the Comptroller or their designated
8 representatives.

9 **SECTION SIX.** The provisions of Section Three of this Ordinance shall only
10 become effective upon receipt by the City of a notice, signed by each of Warehouse
11 Developer, Soulard Developer, and 4100 Developer, directing the City that such
12 provisions shall take effect; provided, however, that in any event, Ordinance No. 66006
13 shall, prior to receipt of such notice, be amended to replace Section 202(c) thereof with
14 that portion of the text set forth in Section Three hereof which precedes the subpart “(ii).”

15 **SECTION SEVEN.** Ordinance No. 66006 is and shall be hereby amended to
16 provide that TIF Notes issued thereunder may be issued in two series (respectively, Series
17 A and Series B), with one serried subordinate in all respects to the other (such
18 subordinate series being the “Subordinate Notes”). The payment of principal and interest
19 on the Subordinate Notes shall be subordinate to payment of principal and interest on
20 other TIF Notes. The City is hereby authorized to amend the form of TIF Note
21 referenced in Ordinance No. 66006 and the Soulard Agreement accordingly.

22 **SECTION EIGHT.** It is hereby declared to be the intention of the Board of
23 Aldermen that each and every part, section and subsection of this Ordinance shall be

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1 separate and severable from each and every other part, section and subsection hereof and
2 that the Board of Aldermen intends to adopt each said part, section and subsection
3 separately and independently of any other part, section and subsection. In the event that
4 any part, section or subsection of this Ordinance shall be determined to be or to have
5 been unlawful or unconstitutional, the remaining parts, sections and subsections shall be
6 and remain in full force and effect, unless the court making such finding shall determine
7 that the valid portions standing alone are incomplete and are incapable of being executed
8 in accord with the legislative intent.